

# OFFICE OF THE ATTORNEY GENERAL

99-00165



**BILL PRYOR**  
ATTORNEY GENERAL  
STATE OF ALABAMA

ALABAMA STATE HOUSE  
11 SOUTH UNION STREET  
MONTGOMERY, ALABAMA 36130  
AREA (334) 242-7300

April 7, 1999

Honorable Rena Hudson  
Mayor, City of Warrior  
215 Main Street  
Warrior, Alabama 35180

Vehicles – Municipalities – Volunteers  
- Expenses

A council member who serves as a volunteer fireman may be reimbursed for expenses or given an expense allowance for the fire and medical calls made by him.

A city council member may drive a vehicle belonging to Volunteer Fire Department to his home if the officials in charge of the department authorize him to do so. This issue should also be addressed to the State Ethics Commission.

Dear Mayor Hudson:

This opinion of the Attorney General is issued in response to your request.

## QUESTION 1

Warrior has a volunteer fire department. Members of the fire department are paid a set amount for each fire and medical call in which

they participate. One of our duly elected council members is also a member of the fire department. Our first question is whether this council member can be reimbursed for the fire and medical calls he makes.

### FACTS AND ANALYSIS

Section 11-43-12 of the Code of Alabama prohibits officers and employees of a municipality from being directly or indirectly interested in a contract, work or business, the price, cost, or expense of which is paid from the city treasury. ALA. CODE § 11-43-12 (1989). It has been concluded by this Office that section 11-43-12 prohibits a member of the city council, who receives compensation as a council member, from being compensated as a volunteer fireman. See Opinion to Honorable Emmett O'Neal Griswold, Jr., City Attorney, Samson, dated March 1, 1985, A.G. No. 85-00236, p. 4. That opinion to Mr. Griswold further stated that compensation does not include an expense allowance or reimbursement for expenses incurred<sup>1</sup> and, therefore, a council member, who serves as a volunteer fireman, may receive a set amount per call as reimbursement for expenses or an expense allowance. *Id.* at 4. To the extent that the amount paid per call exceeds the actual expense of the volunteer per call, it might well be considered to be taxable compensation.

### CONCLUSION

A council member who serves as a volunteer fireman may be reimbursed for expenses or given an expense allowance for the fire and medical calls made by him.

### QUESTION 2

The fire department has a Chevrolet Tahoe that is generally designed for the department use. Our second question is whether this city council member can drive this vehicle home rather than leaving it at the department and driving his personal vehicle to his home.

---

<sup>1</sup> See Van Hart v. deGraffenreid, 388 So. 2d 1196 (Ala. 1980).

FACTS, ANALYSIS, AND CONCLUSION

This Office does not know of any general prohibition against a public employee or official driving a vehicle, owned by the entity that he serves, to and from his home as part of his service, although the State Ethics Law, under some circumstances, might be applicable. There are many reasons that public officials or employees are authorized to take home vehicles owned by the public entity that they serve. For example, state employees and officials are authorized in certain cases to drive state vehicles to and from their jobs. The public official or employee may be "on call" and need to take the vehicle home so that he may respond if called to duty. The official or employee may take the vehicle for security reasons.

If the officials in charge of the volunteer fire department (other than the city council member) determine that it will be a service to the department for the council member, as a member of the volunteer fire department, to drive the department's vehicle to and from his home, then he may do so unless the circumstances indicate that such an arrangement might violate the State Ethics Law.

The question, therefore, should also be addressed to the State Ethics Commission.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Carol Jean Smith of my staff.

Sincerely,

BILL PRYOR  
Attorney General

By:

A handwritten signature in black ink that reads "Carol Jean Smith". The signature is written in a cursive, flowing style.

CAROL JEAN SMITH  
Chief, Opinions Division